

AMENDED IN SENATE JULY 8, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 174

Introduced by Assembly Member Carter

January 29, 2009

An act to amend Sections ~~35706, 35707, 35511~~, 35706, 35708, 35710, and 35711 of, *to amend and renumber Section 35535 of*, and to add Sections 35520.5 ~~and 35710.3~~, 35710.3, 35780.1, and 35787 to, the Education Code, relating to school district reorganization.

LEGISLATIVE COUNSEL'S DIGEST

AB 174, as amended, Carter. School district reorganization.

(1) Existing law defines an action to reorganize school districts as an action to form, dissolve, or lapse a school district, to annex all or part of the territory of a district to another district, to transfer all or part of a district to another district, the unification or deunification of a school district, or to otherwise alter the boundaries of a school district, or any combination of those actions.

This bill would revise and clarify that definition.

(1)

(2) Existing law prescribes the procedure to reorganize school districts, including the filing of a petition with the county superintendent of schools by specified persons. Existing law authorizes a county committee on school district reorganization to approve petitions to transfer territory, other than petitions to transfer uninhabited territory from one district to another, or to transfer inhabited territory of less than 10% of the assessed valuation of the district from which the territory is being transferred, if it finds that certain specified conditions substantially are met. Existing law requires the committee, if it approves

such a petition, to notify the county superintendent of schools, who in turn is required to call an election in the territory of the districts, as determined by the county committee, to be conducted at the next election of any kind in accordance with specified statutory provisions regarding elections.

This bill would authorize a county committee to approve a petition to form one or more school districts if specified conditions are met, including the granting of approval authority by each county superintendent of schools with jurisdiction over an affected school district that elects to grant approval authority to the county committee on school district reorganization for which he or she is secretary, the governing board of each of the affected school districts consents to the petition, and the secretary of the county committee designated as the lead agency for purposes of the California Environmental Quality Act (CEQA), as specified, enters into an agreement on behalf of the county committee for any or all affected school districts to share among those districts the costs of complying with CEQA requirements and serving as the lead agency.

(3) Existing law provides that any school district which has been organized for more than 3 years shall be lapsed, as provided, if the number of registered electors in the district is less than 6 or if specified conditions are satisfied.

For purposes of these provisions regarding lapses, this bill would define lapse as an action to dissolve a school district and annex the entire territory of that district to one or more adjoining school districts. The bill would provide that an action to lapse a school district is subject to specified general statutory provisions regarding the reorganization of school districts.

(4) The bill also would make related technical and conforming changes.

~~(2) Existing law requires a county superintendent of schools to transmit petitions to transfer territory simultaneously to the county committee and to the State Board of Education within 30 days after the petitions are filed.~~

~~This bill would apply that requirement to petitions to form one or more school districts pursuant to the bill.~~

~~(3) CEQA requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that may have a significant effect~~

on the environment, or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would designate the county committee as the lead agency for purposes of CEQA for petitions to transfer territory and petitions to form one or more school districts that the committee considers, except as specified.

~~(4) Existing law requires county officers or agencies to conduct proceedings or take actions in each of the counties involved in an action to reorganize school districts which are located in more than one county and are under the jurisdiction of different county superintendents of schools.~~

~~This bill would specify the manner for selecting the lead agency, as defined, for purposes of CEQA with regard to multicounty reorganization actions.~~

~~(5) Existing law requires a county committee to recommend approval or disapproval of a petition for unification of school districts or for the division of the territory of an existing school district into 2 or more separate school districts, or to approve or disapprove a petition for the transfer of territory, within 120 days of the commencement of the first public hearing on the petition.~~

~~This bill would require that, for the approval or disapproval of specified petitions, the 120-day period would commence after certification of an environmental impact report, approval of a negative declaration, or a determination that the project is exempt from CEQA.~~

~~(6) Existing law requires a county committee to expeditiously transmit petitions to reorganize school districts, not including petitions to transfer territory, to the state board together with its recommendations thereon. Existing law requires the state board to conduct hearings regarding those petitions and recommendations pursuant to specified statutory provisions.~~

~~This bill would apply those requirements to petitions to form one or more school districts pursuant to the bill that are not approved by the county committee and would designate the state board as the lead agency, as defined, for purposes of CEQA for those petitions.~~

~~(7) Existing law authorizes a person to appeal, within 30 days, a decision based on a finding of the county committee that a proposed action to transfer territory will not adversely affect the racial or ethnic integration of the schools of the school districts affected.~~

~~This bill would extend that appeal authority to a decision based on an identical finding regarding a proposed action to form one or more school districts pursuant to the bill.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 35511 of the Education Code is amended*
2 *to read:*

3 35511. An “action to reorganize districts” means ~~an action to~~
4 ~~form, dissolve, or lapse a school district, to annex all or part of the~~
5 ~~territory of a district to another district, to transfer all or part of a~~
6 ~~district to another district, the unification or deunification of a~~
7 ~~school district, or to otherwise alter the boundaries of a school~~
8 ~~district, or any combination of all such actions. either of the~~
9 ~~following:~~

10 (a) *An action to form a new school district, which is*
11 *accomplished through any of, or any combination of, the following:*

12 (1) *Dissolving two or more existing school districts of the same*
13 *kind and forming one or more new school districts of that same*
14 *kind from the entire territory of the original districts.*

15 (2) *Forming one or more new school districts of the same kind*
16 *from all or parts of one or more existing school districts of that*
17 *same kind.*

18 (3) *Unifying school districts, including the consolidation of all*
19 *or part of one or more high school districts with all or part of one*
20 *or more component school districts into one or more new unified*
21 *school districts.*

22 (4) *Deunifying a school district, including the conversion of all*
23 *or part of a unified school district into one or more new high school*
24 *districts, each with two or more new component districts.*

25 (b) *An action to transfer territory, including the transfer of all*
26 *or part of an existing school district to another existing school*
27 *district.*

28 ~~SECTION 1.~~

29 *SEC. 2. Section 35520.5 is added to the Education Code, to*
30 *read:*

31 35520.5. (a) For a petition described in Section 35521, the
32 county superintendents of schools of the affected counties by

1 mutual agreement shall determine which county committee shall
2 be designated the lead agency, as defined in Section 21067 of the
3 Public Resources Code, for purposes of the California
4 Environmental Quality Act (Division 13 (commencing with Section
5 21000) of the Public Resources Code).

6 (b) If an agreement is not attained pursuant to subdivision (a)
7 within 30 days of the ~~filing~~ *transmittal* of the petition pursuant to
8 Section ~~35700~~ 35704, the lead agency for purposes of the
9 California Environmental Quality Act (Division 13 (commencing
10 with Section 21000) of the Public Resources Code) shall be the
11 county committee for which the county superintendent of schools,
12 serving as the secretary of the committee pursuant to Section 4012,
13 has the greatest number of pupils under his or her jurisdiction, as
14 compared to the other affected counties, in the territory proposed
15 for reorganization.

16 *SEC. 3. Section 35535 of the Education Code is amended and*
17 *renumbered to read:*

18 ~~35535.~~

19 35786. An order of a county committee attaching the territory
20 of a lapsed *school* district to one or more adjoining *school* districts
21 shall be effective for all purposes on the date of the order.

22 ~~SEC. 2.~~

23 *SEC. 4. Section 35706 of the Education Code is amended to*
24 *read:*

25 35706. (a) Within 120 days of the commencement of the first
26 public hearing on the petition, the county committee shall
27 recommend approval or disapproval of a petition for unification
28 of school districts or for the division of the territory of an existing
29 school district into two or more separate school districts, as the
30 petition may be augmented, or shall approve or disapprove a
31 petition for the transfer of territory, as the petition may be
32 augmented.

33 (b) The 120-day period for approving or disapproving a petition
34 pursuant to Section 35709 or 35710 shall commence after
35 certification of an environmental impact report, approval of a
36 negative declaration, or a determination that the project is exempt
37 from the California Environmental Quality Act (Division 13
38 (commencing with Section 21000) of the Public Resources Code).

39 ~~SEC. 3. Section 35707 of the Education Code is amended to~~
40 ~~read:~~

1 ~~35707. (a) Except for petitions for the transfer of territory or~~
2 ~~petitions to form one or more school districts that meet the~~
3 ~~conditions described in subdivision (b) of Section 35710, the~~
4 ~~county committee expeditiously shall transmit the petition to the~~
5 ~~state board together with its recommendations on the petition. It~~
6 ~~also shall report whether any of the following, in the opinion of~~
7 ~~the committee, would be true regarding the proposed reorganization~~
8 ~~as described in the petition:~~

9 ~~(1) It adversely would affect the school district organization of~~
10 ~~the county.~~

11 ~~(2) It would comply with Section 35753.~~

12 ~~(b) Petitions for transfers of territory and petitions to form one~~
13 ~~or more school districts that meet the conditions described in~~
14 ~~subdivision (b) of Section 35710 shall be transmitted pursuant to~~
15 ~~Section 35704.~~

16 ~~SEC. 5. Section 35708 of the Education Code is amended to~~
17 ~~read:~~

18 ~~35708. The Except for a petition to form one or more school~~
19 ~~districts approved pursuant to subdivision (b) of Section 35710,~~
20 ~~a petition transmitted pursuant to Section 35707, including the~~
21 ~~plans and recommendations included therein, if any, together with~~
22 ~~the recommended approval or disapproval and the plans and~~
23 ~~recommendations, if any, of the county committee shall be heard~~
24 ~~by the State Board of Education state board as provided in Article~~
25 ~~4 (commencing with Section 35750).~~

26 ~~SEC. 4.~~

27 ~~SEC. 6. Section 35710 of the Education Code is amended to~~
28 ~~read:~~

29 ~~35710. (a) For all other petitions to transfer territory, if the~~
30 ~~county committee finds that the conditions enumerated in~~
31 ~~paragraphs (1) to (10), inclusive, of subdivision (a) of Section~~
32 ~~35753 substantially are met, the county committee may approve~~
33 ~~the petition and, if approved, shall notify the county superintendent~~
34 ~~of schools who shall call an election in the territory of the districts~~
35 ~~as determined by the county committee, to be conducted at the~~
36 ~~next election of any kind in accordance with either of the following:~~

37 ~~(1) Section 1002 of the Elections Code and Part 4 (commencing~~
38 ~~with Section 5000) of Division 1 of Title 1.~~

39 ~~(2) Division 4 (commencing with Section 4000) of the Elections~~
40 ~~Code.~~

1 (b) A county committee also may approve a petition to form
2 one or more school districts if the requirements of subdivision (a),
3 and the following conditions, are met:

4 (1) Each county superintendent of schools with jurisdiction over
5 an affected school district elects to grant approval authority to the
6 county committee on school district organization for which he or
7 she is secretary pursuant to Section 4012, and that county
8 committee chooses to accept that authority.

9 (2) The governing board of each of the affected school districts
10 consents to the petition.

11 (3) The secretary of the county committee designated as the
12 lead agency pursuant to Section 35710.3 or subdivision (a) of
13 Section 35520.5 enters into an agreement on behalf of the county
14 committee for any or all affected school districts to share among
15 those districts the costs of complying with the requirements of the
16 California Environmental Quality Act (Division 13 (commencing
17 with Section 21000) of the Public Resources Code).

18 (c) A petition to form one or more school districts that meets
19 the conditions described in subdivision (b), but is not approved by
20 the county committee, shall be transmitted to the state board
21 pursuant to subdivision (a) of Section 35707 and heard by the state
22 board pursuant to Section 35708. The state board, rather than the
23 county committee, shall be the lead agency, as defined in Section
24 21067 of the Public Resources Code, for purposes of the California
25 Environmental Quality Act (Division 13 (commencing with Section
26 21000) of the Public Resources Code) for each petition transmitted
27 pursuant to this subdivision, including a petition disapproved by
28 the county committee after determining the project is exempt from
29 the California Environmental Quality Act pursuant to paragraph
30 (5) of subdivision (b) of Section 21080 of the Public Resources
31 Code.

32 ~~SEC. 5.~~

33 *SEC. 7.* Section 35710.3 is added to the Education Code, to
34 read:

35 35710.3. A county committee shall be the lead agency, as
36 defined in Section 21067 of the Public Resources Code, for
37 purposes of the California Environmental Quality Act (Division
38 13 (commencing with Section 21000) of the Public Resources
39 Code) for each petition it considers pursuant to Sections 35709

1 and 35710, unless the state board is the lead agency pursuant to
2 subdivision (c) of Section 35710.

3 ~~SEC. 6.~~

4 *SEC. 8.* Section 35711 of the Education Code is amended to
5 read:

6 35711. (a) A person questioning the finding of the county
7 committee pursuant to Section 35709 or 35710 that the action to
8 transfer territory or form one or more school districts will not
9 adversely affect the racial or ethnic integration of the schools of
10 the districts affected, may appeal a decision based on that finding.
11 The appeal shall be made to the state board within 30 days. The
12 appeal shall be based upon factual and statistical evidence.

13 (b) If the state board denies the appeal, the decision of the county
14 committee shall stand. If the state board approves the appeal, it
15 shall review the findings of the county committee at a regular
16 meeting of the state board.

17 (c) The state board shall notify the county committee ~~on~~ of its
18 decision on the appeal. If the state board approves the appeal, the
19 county committee shall transmit a copy of the proceedings to the
20 state board within 30 days after receipt of notice. The state board
21 shall review the transcript, considering all factors involved. The
22 state board may reverse, or may affirm, the decision of the county
23 committee, or if it appears that inadequate consideration was given
24 to the effect of the transfer on integration of the schools of the
25 districts affected, it shall direct the county committee to reconsider
26 its decision and for this purpose to hold another hearing.

27 *SEC. 9.* Section 35780.1 is added to the Education Code, to
28 read:

29 35780.1. *For purposes of this article, “lapse” means an action*
30 *to dissolve a school district and annex the entire territory of that*
31 *district to one or more adjoining school districts.*

32 *SEC. 10.* Section 35787 is added to the Education Code, to
33 read:

34 35787. *Except as otherwise provided in this article, an action*
35 *to lapse a school district is subject to the provisions of Chapter 3*
36 *(commencing with Section 35500).*